Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Amendment of Part 1 of the Commission's Rules, Pertaining to the Schedule of Annual Regulatory Fees for Mass Media Services	)	MD Docket No. 96-186

NOTICE OF INQUIRY

Adopted: October 25, 1996 ; Released: November 6, 1996

Comment Date:	30 days from date of publication in the Federal Register
Reply Comment Date:	45 days from date of publication in the Federal Register

By the Commission:

I. INTRODUCTION

1. By this Notice of Inquiry, the Commission is initiating a proceeding to determine if, in FY 1997, it is feasible to utilize a methodology based on market size for assessing annual regulatory fees upon licensees of AM and FM broadcast radio stations. We invite interested parties to comment upon a methodology proposed by the Montana Broadcasters Association (Montana), and to propose any other methodology for assessing AM and FM fees they believe would serve the public interest.

II. BACKGROUND

2. In establishing our regulatory fee program, we recognized that Congress had required the Commission to adopt the Schedule of Regulatory Fees for FY 1994, contained in section 9(g) of the Communications Act, as amended. 47 U.S.C. § 159(g). The Schedule assessed AM and FM radio fees based upon class of station. Thus, each licensee paid a fee identical to other licensees with the same class of station, without regard to the size of its service area. See Implementation of Section 9 of the Communications Act, 9 FCC Rcd 5333, 5339 (1994). Therefore, we declined to consider any revision to the fee schedule for FY 1994, but we invited interested parties to propose alternative methodologies for various services subject to the regulatory fees, including AM and FM radio, for consideration in our proceeding to adopt the FY 1995 Schedule of Regulatory Fees. 9 FCC Rcd at 5360. Subsequently, in our Notice proposing fees for FY 1995, we recognized that "population density of a [AM or FM] station's geographic location was also a public interest factor warranting recognition in the fee schedule." Therefore, we proposed for consideration by interested parties a

methodology incorporating market size in the calculation of AM and FM fees, by assessing higher fees for radio stations located in Arbitron Rating Co. (Arbitron) designated markets. We proposed a two-tiered fee schedule with stations in Arbitron rated markets paying higher fees than the same classes of stations located in smaller, non-Arbitron rated markets. See Notice of Proposed Rulemaking in the Matter of Assessment and Collection of Regulatory Fees for Fiscal Year 1995, MD Docket No. 95-3, FCC 95-14, released January 12, 1995 at ¶ 29. Nevertheless, in our Report and Order establishing the FY 1995 fees, we declined to adopt this proposed method because, after consideration of the comments, we found that it did not provide a "sufficiently accurate and equitable method for determining fees." See Assessment and Collection of Regulatory Fees for Fiscal Year 1995 . 10 FCC Rcd 13512, 13531-32 (1996).

3. In our Notice of Proposed Rulemaking to establish regulatory fees for FY 1996, we stated with regard to the fees for AM and FM radio stations, that we "were particularly interested in a proposal which would associate population density and service area contours with license data" and we again requested interested parties to propose viable alternative methodologies for assessment of AM and FM fees. Assessment and Collection of Regulatory Fees for Fiscal Year 1996, FCC 96-153, ¶¶ 20-21 (April 9, 1996). In response, Montana filed comments proposing an AM and FM fee structure based on class of station and on market size. We received no comments addressing Montana's proposal. However, following our own review of the proposal, we decided not to take any action until we had an opportunity to more extensively evaluate the impact of Montana's proposal on AM and FM licensees through a Notice of Inquiry. Assessment and Collection of Regulatory Fees for Fiscal Year 1996, FCC 96-295, ¶¶ 23-29, July 5, 1996.

III. THE MONTANA PROPOSAL

4. Montana's proposed methodology utilizes broad groupings of radio markets determined by Arbitron market size, with the fee for each market grouping predicated on the ratios that Congress initially established in Section 9(g) of the Act (47 U.S.C. § 159(g)) for assessing fees for licensees of television stations serving different sized markets. Montana proposes four specific radio market classifications: Markets 1 through 25; Markets 26-50; Markets 51-100; and Remaining Markets. Montana's proposal assigns stations to each market grouping based upon Arbitron market designations and relies on an analysis of broadcast markets prepared by Dataworld MediaXpert Service which groups radio stations by class of station within a particular market size. It then calculates the fees for stations in different markets utilizing the ratios between the fees for television markets in Section 9(g). Montana argues that its proposal is more equitable than the groupings based on class of station relied on by the Commission, because under its proposal stations in smaller markets would pay lower fees than stations serving more populous markets.

5. In order to collect the total aggregate fees to be recovered from AM and FM radio stations as proposed in the FY 1995 NPRM, Montana's proposed methodology would have allocated fees among radio stations as follows:

Markets	AM Class A	AM Class B	AM Class C	AM Class D	FM Class I[1]	FM Class II[2]
1-25	$2,890	$1,710	$645	$815	$2.890	$1,940
26-50	$2,040	$1,140	$455	$575	$2.040	$1.370
51-100	$1,360	$760	$305	$385	$1.360	$910
Remaining	$850	$475	$190	$240	$850	$570

6. However, subsequent to the filing of Montana's proposal, Congress increased the aggregate amount of fees to be recovered by the Commission and amended the Commission's regulatory fee schedule for television stations to increase the fees paid by licensees in larger markets and to reduce the fees paid by licensees located in Markets 51-100 and the Remaining Markets. Pub. L. No. 104-134. See Assessment Collection of Regulatory Fees for Fiscal Year 1996, supra at ¶ 14. This substantially changed the ratios between the fees for television stations in different sized markets used by Montana to compute its proposed radio fees. Substituting the actual ratios between the regulatory fees for television stations in different sized markets for the old ratios utilized in Montana's proposal, would have produced the following radio fees for FY 1996:[3]

Markets	AM Class A	AM Class B	AM Class C	AM Class D	FM Class I[4]	FM Class II[5]
1-25	$11,500	$6,325	$2,575	$3.150	$4,875	$3.250
26-50	$6,675	$3,675	$1.500	$1,850	$2.850	$1.900
51-100	$3,550	$1,975	$800	$980	$1.525	$1.000
Remaining	$1,000	$555	$225	$275	$430	$285

[1] Class I includes FM Classes C, C1, C2 and B.

[2] Class II includes FM Classes A, B1 and C3.

[3] By contrast, according to the FY 1996 Schedule of Regulatory Fees, AM class A stations are assessed a fee of $1.250; Class B stations $690; Class C stations $280; and Class D stations $345. Similarly, FM Class C, C1, C2 and B stations (Montana's FM Class I) are assessed a fee of $1.250; and FM Class A, B1 and C3 stations (Montana's FM Class II) a fee of $830.

[4] Class I includes FM Classes C, C1, C2 and B.

[5] Class II includes FM Classes A, B1 and C3.

7. The above fees illustrate the impact of the Montana proposal when the changes mandated by Congress to the Regulatory Fee Schedule are considered. We are particularly concerned about the size of the increases in larger markets which, in addition to having more potential listeners, have greater concentrations of stations, thereby increasing the competition for listeners in those markets. Moreover, the accuracy of both sets of calculations are predicated on assumptions that the total aggregate amount of fees to be collected remains unchanged, that the revenue requirement allocated to all broadcast licensees remains unchanged, and that there are no changes in the numbers and classes of licensees subject to broadcast fees. The calculations presented herein are illustrative only, because the fees are predicated on assumptions that may not re-occur in FY 1997. A change in any or all three of these factors, would result in individual fees different than those illustrated in paragraph 6.

IV. CONCLUSION

8. As discussed above, we intend to explore in this proceeding whether, in FY 1997, the regulatory fee schedule for AM and FM radio stations should be modified to take into consideration market size. Any such alternative fee schedule that we might propose would be subject to public comment in our proceeding to establish fees for FY 1997. To assist our efforts, we invite public comment on the Montana proposal or on proposed alternative methods for assessing regulatory fees for the AM and FM radio services.

V. PROCEDURAL MATTERS

9. Accordingly, the Commission adopts this Notice of Inquiry pursuant to authority contained in Sections 4(i), and (j), 9, 303 (r), and 403 of the Communications Act of 1934 as Amended. 47 U.S.C. §§ 154(i) and (j), 9, 303(r), and 403.

10. Pursuant to the applicable procedures set forth in Section 1.415 and 1.4129 of the Commission's Rules, 47 C.F.R. §§ 1.425 and 1.419, interested parties may file comments on or before (**30 days from date of publication in the Federal Register**) and reply comments on or before (**45 days from date of publication in the Federal Register**). All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. To file formally in this proceeding, participants must submit an original and four copies of all comments, reply comments and supporting comments. If participants want each Commissioner to receive a personal copy of their comments, an original and nine copies must be filed. Comments and reply comments should be sent to the Office of the Secretary, Federal Communications Commission, Washington, D.C. 20554. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center (Room 239, 1919 M Street, N.W. , Washington, D.C. 20554), of the Federal Communications Commission.

11. This Notice of Inquiry is exempt from restrictions on ex parte presentations. See 47 C.F.R. §1.1204(a)(4).

12. Further information on this proceeding may be obtained by contacting Jerome D. Remson (202-418-1755), Office of the General Counsel, or Terry Johnson (202) 418-0445, Office of the Managing Director .

FEDERAL COMMUNICATIONS COMMISSION

William F. Caton

William F. Caton
Acting Secretary